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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/451,802	12/01/1999	MURALI SUNDAR	884.132US1	9540

21186 7590 10/22/2003

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EXAMINER

POLLACK, MELVIN H

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 10/22/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/451,802

Applicant(s)

SUNDAR, MURALI

Examiner

Melvin H Pollack

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see detailed office action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

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DETAILED ACTION

Response to Arguments

1. See 37 CFR 1.193(a)(2) which provides for the inclusion of the proposed rejection(s) detailed below in the Examiner's Answer if applicant elects to file an appeal to the Board of Patent Appeals and Interferences in this proceeding. To be complete, such rejection(s) must be addressed in any brief on appeal.

Upon appeal and entry of the amendment:

Claims 1, 2, 7, 8, 16-21 would be rejected for the reasons set forth in **103 Adams in view of Meyer rejection** of the final Office Action mailed 16 July 2003.

Claims 3-6, 10-15 would be rejected for the reasons set forth in **103 Adams in view of Meyer in view of Walsh rejection** of the final Office Action mailed 16 July 2003.

Claim 9 would be rejected for the reasons set forth in **103 Adams in view of Meyer in view of Johnson rejection** of the final Office Action mailed 16 July 2003.

2. Applicant's arguments filed 23 September 2003 have been fully considered but they are not persuasive. The reasons for this are detailed below.

3. Applicant argues that the art does not expressly disclose, "specifying a preferred state of the networked computer(s), particularly where the preferred state comprises hardware and software configuration (P. 8, lines 14-16)." Instead, by the applicant's own words, "Adams teaches for example specifying a preferred state of data file sizes" in addition to "managing the size and content of data files (Page 8, lines 10-13)." Since the operation of a computer depends significantly on data file size and content, by definition this limitation leads to specifying a preferred state of the networked computer(s), particularly for software configuration as currently

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drawn in the claims. Further, the configuration of one aspect of a system may lead one of ordinary skill in the art to provide configurations of another system using the same configuration method, provided that the method itself doesn't change. Suppose for the sake of argument that Adams was used solely for the purpose of bringing file sizes to a preferred state (which the applicant is not claiming, as shown in the quote above). Through the same method, it is clear that files could be added or changed (as data file sizes would be changed) and therefore, there could be provided a new device driver (hardware) or program update (software). By providing this, Adams could better manage the data stored on computer networks (col. 1, lines 5-10). They would also be able to manage, index, and distribute a wider variety of data and index files (col. 1, line 46). Indeed, there exists an index agent to distribute data files, such as the ones above.

4. Applicant argues that examiner does not adequately show "defining selected networked computers (P. 8, line 26)." The examiner realizes that some clarification is necessary. As I showed in the previous office action, an agent travels from computer to computer within a network, based on previously learned information, random factors, and a list of computers (i.e. an index block) (col. 4, lines 15-35). Other methods of agent travel may be substituted for this algorithm. At any rate, it is clear that an agent can track whether a node has been visited (Fig. 4, #434), so there is by extension a mechanism for tracking agent travels, such information being one of the above pieces of information for defining travel. By definition, such agents also must have a finite list of computers to visit, assuming that Adams is not a worm program.

5. Applicant argues that examiner does not adequately show "monitoring selected computers" or "bringing them back to the preferred state." Examiner notes that applicant has already admitted that the agents do this, as shown in the quote above. It should be clear that

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agents travel from computer to computer, check the status i.e. of the file size or content (i.e. a query agent), and bring them back to a preferred state (i.e. a balance agent). The applicant's statement regarding Adams could not be true if it did not have these limitations.

6. In response to applicant's argument that Adams and Meyer is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Adams and Meyer are drawn towards a similar task of managing a set of computers, particularly files and program files. More particularly, both are developed to allow "remote access to computers" (col. 1, line 30) so that a "user can make any adjustments to the computer through the agent" (col. 1, line 44). In short, both items use similar methods for slightly different purposes, with Meyer drawn towards managing hardware and software settings. And again, it is by definition impossible to manage settings on the computers (see abstract) without defining which computers to manage (Fig. 1, 11-13). The applicant is further directed to col. 7, lines 34-45. At the time the invention was made, one of ordinary skill in the art would have combined Adams and Meyer for the reasons above, and to broaden Adams' remote access to provide more options for utilization.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H Pollack whose telephone number is (703) 305-4641. The examiner can normally be reached on 8:30-5:00 M-F.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800.

MHP

19 October 2003



RUPAL DHARIA
SUPERVISORY PATENT EXAMINER